

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

GILBERTO ROSALES and HECTOR	)	
JOSE POLANCO-ALVAREZ,	)	
<i>individually and on behalf of themselves</i>	)	Civil Action No. 3:20-cv-00916-HEH
<i>and others similarly situated,</i>	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
CAPITAL INTERIOR	)	
CONTRACTORS, INC.; GTO	)	
DRYWALL, LLC; and RDIC, INC,	)	
	)	
Defendants.	)	

**DEFENDANT CAPITAL INTERIOR CONTRACTORS, INC.’S  
MOTION TO DISMISS AMENDED COMPLAINT**

Defendant Capital Interior Contractors, Inc. (“Capital”), by and through counsel, pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(b)(1), hereby moves this Court to dismiss the Amended Complaint (ECF No. 9) filed by Plaintiffs Gilberto Rosales and Hector Jose Polanco-Alvarez for failure to state a claim as to which relief can be granted and for lack of subject matter jurisdiction, as set forth in the accompanying Memorandum in Support of the Motion to Dismiss.

WHEREFORE, Capital requests that the Court dismiss Count I and Count II of the Amended Complaint, dismiss the collective action and Rule 23 class action claims, and issue such other and further relief as the interests of justice may require.

Dated: January 29, 2021

Respectfully submitted,

CAPITAL INTERIOR CONTRACTORS, INC.

By:                     /s/ Nathaniel L. Story

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 29<sup>th</sup> day of January 2021, I caused a true and correct copy of the foregoing to be electronically filed with the Clerk of Court for the Eastern District of Virginia, Richmond Division, using the Court's CM/ECF system, which thereby caused the above to be served electronically on all registered users of the Court's CM/ECF system who have filed notices of appearance in this matter.

/s/ Nathaniel L. Story